

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 2424 – SB 2399**

April 12, 2016

**SUMMARY OF ORIGINAL BILL:** Authorizes a judge to use the Interlock Assistance Fund to pay any portion of the costs related to a transdermal monitoring device as a condition of bail that the judge determines the person cannot pay.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENTS (011860, 013717, 016016):** Amendment 011860 deletes all language after the enacting clause. Renames the Interlock Assistance Fund as the DUI Monitoring Fund (DMF). Requires funds distributed from the DMF to be used for persons deemed by the court to be indigent for costs related to the lease, purchase, installation, removal, and maintenance of ignition interlock devices, or with any other cost or fee associated with an ignition interlock device, and costs associated with the use of a transdermal monitoring device or other alternative alcohol or drug monitoring device, if such a device is a function of bail, probation, and suspended prosecution. Establishes a \$200 per month funding limitation from the DMF with respect to any indigent person case. Aligns the DMF with the current funding mechanism of the Interlock Assistance Fund pursuant to Tenn. Code Ann. § 55-10-413.

Amendment 013717 adds language to mandate funds from the DMF be used to cover all the administrative costs incurred by the Department of Treasury in administering the DMF.

Amendment 016016 adds language to clarify that a DUI offender may be housed in an alternative facility in the event the appropriate municipal or county jail or workhouse lacks sufficient space to house the offender. Requires such offender to be responsible for the cost and fees involved with the program and specifies that the court does not have authority to provide public funds to offset any indigent costs associated with the program.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

**Increase State Expenditures – \$166,000/DUI Monitoring Fund**

**Decrease State Expenditures - \$70,000/General Fund**

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Assumptions for the bill as amended:

- Tenn. Code Ann. § 55-10-419 currently requires funding from the Interlock Assistance Fund to be used to pay costs of ignition interlock devices for indigent offenders.
- Rates for ignition interlock devices vary by provider, but the Department of Safety (DOS) sets maximum rates that may be charged. The maximum rates are as follows: \$150 for installation; \$100 for monthly monitoring; and \$75 for removal; for a total of \$1,425 (\$150 installation + \$75 removal (\$100 monitoring x 12 months)).
- The monthly estimated cost is estimated to be \$118.75 (\$1,425 / 12 months).
- It is assumed that the cost to install, monitor, and remove an ignition interlock, as it pertains to the provisions of the bill as amended, will be the same as the rates as established by the DOS.
- Given the average monthly cost for an ignition interlock device is estimated to be \$118.75, and such is less than the \$200 funding limitation imposed pursuant to the bill as amended, it is assumed there will be no fiscal impact related to ignition interlock devices.
- Judges are currently authorized to order the use of a transdermal monitoring device as a condition of bail pursuant to Tenn. Code Ann. § 40-11-148.
- A third party contract would be required for the transdermal monitoring devices and actual monitoring of the devices. According to information from the United States Department of Transportation and the Traffic Injury Research Foundation, there is usually an activation fee, a daily charge for monitoring the device, and a deactivation fee.
- The fees for transdermal monitoring devices are approximately \$75 for each activation and each deactivation, and daily monitoring charges of approximately \$12 per day.
- The total cost related to a transdermal monitoring device is estimated to be \$4,530 per year per person [\$75 activation + \$75 deactivation + (\$12 monitoring x 365 days)].
- The monthly cost is estimated to be \$377.50 (\$4,530 / 12 months).
- Given the average monthly cost for a transdermal monitoring device is estimated to be \$377.50, and such is more than \$200 funding limitation imposed pursuant to the bill as amended, the entire allotment will be utilized each case under the provisions of the bill as amended.
- The Department of Treasury estimates 200 people each year will be assigned a transdermal monitoring device. It is estimated that approximately 20 percent of those (or 40 individuals) will be declared indigent and will require funding assistance from the DMF.
- The average length of time a judge will order a person to wear a transdermal monitoring device is not known. For purposes of this fiscal memorandum, it is assumed an average of 40 indigent individuals will be required to wear a transdermal monitoring device at any given time.
- The recurring increase in state expenditures from the DMF is estimated to be \$96,000 (40 individuals x \$200 monthly cost x 12 months).
- Currently, the Department of Treasury has two full time employees, each working part time on administering the fund. Mandating the administrative expenses for the fund be

paid using monies from the fund will create a shift in expenditures related to the salaries and supplies for the fund.

- The salaries and expenses are assumed to be paid using an existing appropriation from the General Fund under current law.
- It is reasonably assumed Treasury will shift the responsibilities of administering the fund to one full time employee. Based on information provided by Treasury, recurring expenditures for salary, benefits, and supplies related to administering the fund are estimated to exceed \$70,000. As a result, there will be a recurring increase in state expenditures from the DMF estimated to exceed \$70,000; and a recurring decrease in state expenditures from the General Fund estimated to exceed \$70,000.
- The total recurring increase in state expenditures from the DMF is estimated to be \$166,000 (\$96,000 + \$70,000).
- The County Technical Advisory Service (CTAS) confirms the provisions in amendment 016016, relative to the use of alternative facilities, will not have a significant fiscal impact on local governments.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee" followed by the letters "RNC" in a smaller, less distinct script.

Krista M. Lee, Executive Director

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